

**BID FORM**

MISSOURI DEPARTMENT OF TRANSPORTATION  
GENERAL SERVICES  
830 MoDOT DRIVE – P.O. BOX 270  
JEFFERSON CITY, MO 65102

REQUEST NO.	2-110616AS
DATE	June 1, 2011
PAGE NO.	1
NO. OF PAGES	11

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

**10:00 AM, CDT, June 16, 2011**

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered

**F.O.B. Destinations**

**Per District Purchase Orders**

<b>BUYER:</b>	Angela Sutton, Procurement Agent	<b>BUYER TELEPHONE:</b>	(573) 526-7929
<b>BUYER EMAIL:</b>	Angela.Sutton@modot.mo.gov		

**SUPPLIES OR SERVICES**

MoDOT is seeking bids from qualified bidders whom can provide **Mineral Spirits and Double Boiled Linseed Oil.**

State place of manufacturer and point that material may be available for inspection:

Name: \_\_\_\_\_

Location: \_\_\_\_\_

**\*\*\*NOTE: It is the responsibility of the Bidder to access MoDOT’s website in order to obtain any and all addenda(s) issued during the course of this RFB process.**

This document constitutes a RFB and solicits competitive sealed bids from qualified bidders to provide Mineral Spirits and Double Boiled Linseed Oil. The issuance of this RFB in no way constitutes a commitment to award a contract or to pay any costs incurred in preparation of a response to this request.

**All questions regarding this RFB shall be submitted to the RFB Coordinator/Contact.**

**(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)**

*In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within thirty (30) days, after receipt of formal purchase order.*

**Date:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_

**Fax No.:** \_\_\_\_\_

**Federal I.D. No.** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Firm Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**By (Signature):** \_\_\_\_\_

**Type/Print Name** \_\_\_\_\_

**Title:** \_\_\_\_\_

Is your firm MBE certified?  Yes  No

Is your firm WBE certified?  Yes  No

**MISSOURI DEPARTMENT OF TRANSPORTATION**  
**JEFFERSON CITY, MISSOURI**  
**Mineral Spirits and Double Boiled Linseed Oil**

**Request No. 2-110616AS**

**1. Introduction**

- 1.1 This solicitation seeks bids from qualified organizations that can provide Mineral Spirits and Linseed Oil throughout the state of Missouri to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT).
- 1.2 The contract period shall be from the Notice to Proceed through December 31, 2011, with the option for one (1) 6 month renewal period.
  - a. If MoDOT exercises the renewal option, the contractor shall agree to all terms and conditions of this bid and all subsequent amendments. The requirements for future months shall remain the same. MoDOT does not automatically grant a price increase at the time of renewal.
  - b. In the event the contractor requests a price increase during the renewal period, the contractor must provide a written request and documentation justifying the need for a price increase and the amount of such price increase. MoDOT will review the contractor's written request and documentation for a price increase, and decide if a price increase is to be granted at that particular time. The contractor shall understand and agree that MoDOT's decision shall be final and without recourse.
  - c. In the event a price increase is granted due to an approved escalation, the renewal increase shall be based upon the current contract value.

**2. Quantities**

- 2.1 The quantities identified on the Pricing Page are estimates only and are not guaranteed. The successful bidder may be requested to furnish more or less than the estimated quantity.
- 2.2 MoDOT will issue purchase orders throughout the duration of the contract on an as needed basis.

**3. Specifications**

- 3.1 MoDOT will use mineral Spirits and Double Boiled Linseed Oil for surface sealing of bridge decks and other concrete structures as required.
- 3.2 The material shall conform to the enclosed MoDOT specification designated as MGS-92-09C and any other provisions outlined in the solicitation document.

**4. Delivery**

- 4.1 The contractor shall deliver mineral spirits and linseed oil, as specified herein, to all MoDOT Districts located throughout the state as identified by each purchase order.
- 4.2 The District Engineer or the engineer's representative may issue delivery orders by phone, fax, email, or mail. Orders placed via phone will be confirmed on hard copy.
- 4.3 Deliveries must be within thirty (30) days after receipt of purchase order.
- 4.4 In the event the contractor does not expect to meet the contract delivery date and time requirements, the ordering district should be notified of the delay.

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**JEFFERSON CITY, MISSOURI**  
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**5. Liquidated Damages**

5.1 In the event the successful Contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the **sum of twenty-five dollars (\$25.00) per day, per item**, for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages.

a. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.

**6. Invoicing and Payment Requirements**

6.1 The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.

6.2 The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page of this document after completion of deliverables specified herein and acceptance by MoDOT.

6.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

6.4 MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful bidder upon request.

6.5 Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

6.6 The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the contractor's expense.

**7. Bid Submission**

7.1 Each bid must be mailed or hand delivered in a sealed package to the RFB Coordinator at the General Services Procurement Office. All questions regarding the RFB shall be submitted to the RFB Coordinator. All bids must be received at the General Services Procurement Office located at 830 MoDOT Drive, no later than **10:00 a.m., CDT, June 16, 2011.**

**PLEASE NOTE PHYSICAL ADDRESS CHANGE BELOW.**

**RFB Coordinator:**  
**Ms. Angela Sutton, Procurement Agent**  
**Missouri Department of Transportation**  
**830 MoDOT Drive; Jefferson City, MO 65109**  
**P.O. Box 270; Jefferson City, MO 65102**  
**PHONE: (573) 526-7929; FAX: (573) 526-1218**

**MISSOURI DEPARTMENT OF TRANSPORTATION  
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- 7.2 All bids must be received in a sealed package clearly marked “**Mineral Spirits and Linseed Oil**”
- 7.3 **MHTC reserves the right to reject any and all bids for any reason whatsoever.**
- 7.4 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and responsive bid.
- 7.5 **Cost Determination** – The low bid shall be determined by reviewing each line item separately.
- 7.6 **Contract Award** – The contract will be awarded to the lowest responsive bidder determined as specified above.
- 7.7 **Open Competition/Request for Bid Document**
  - a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least five (5) working days prior to the official bid opening date.



## MINERAL SPIRITS AND DOUBLE BOILED LINSEED OIL MGS-92-09C

**1.0 DESCRIPTION.** This specification covers mineral spirits and double boiled linseed oil for surface sealing of bridge decks and other concrete structures as required.

### **2.0 MATERIALS.**

**2.1 Mineral Spirits** Mineral spirits shall comply with the requirements of ASTM D 235, Type I, Class A and shall have an infrared spectrum typical of mineral spirits.

**2.2 Double Boiled Linseed Oil.** Double boiled linseed oil shall comply with the requirements of ASTM D 260, Type II, and shall have an infrared spectrum typical of double boiled linseed oil.

**3.0 PACKAGING.** The material shall be in non-returnable drums.

**4.0 MARKING.** The drums shall be marked with the manufacturer's name and net quantity in gallons.

### **5.0 SAMPLING.**

**5.1** The material will be sampled and tested at destination as deemed necessary by the engineer.

### **6.0 CERTIFICATION AND ACCEPTANCE.**

**6.1** The manufacturer shall submit to the engineer at destination a certification, for each shipment, stating that the material supplied complies with all requirements of this specification.

**6.2** Acceptance of the material will be based on a satisfactory manufacturer's certification and on tests performed by the engineer.

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JEFFERSON CITY, MISSOURI  
Mineral Spirits and Double Boiled Linseed Oil**

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**PRICING PAGE**

The bidder shall provide firm, fixed prices to MHTC as stated on the PRICING PAGES in accordance with the terms of this Request for Bid. All costs associated with providing the required deliverables/services shall be included in the prices stated below.

<b>Item #:</b>	<b>Description:</b>	<b>Mfg. No. or Brand</b>	<b>Quantity:</b>	<b>Unit of Issue:</b>	<b>Unit Price:</b>	<b>Extended Total:</b>
#1	6309070300 Mineral Spirits (55 Gallon Drums)		440	Gallon		
#2	6304205055 Double Boiled Linseed Oil (55 Gallon Drums)		440	Gallon		
<b>TOTAL:</b>						<b>\$</b>

<b>Item #:</b>	<b>Description:</b>	<b>Mfg. No. or Brand</b>	<b>Quantity:</b>	<b>Unit of Issue:</b>	<b>Unit Price:</b>	<b>Extended Total:</b>
#1	6309070300 Mineral Spirits (30 Gallon Drums)		540	Gallon		
#2	6304205055 Double Boiled Linseed Oil (30 Gallon Drums)		90	Gallon		
<b>TOTAL:</b>						<b>\$</b>

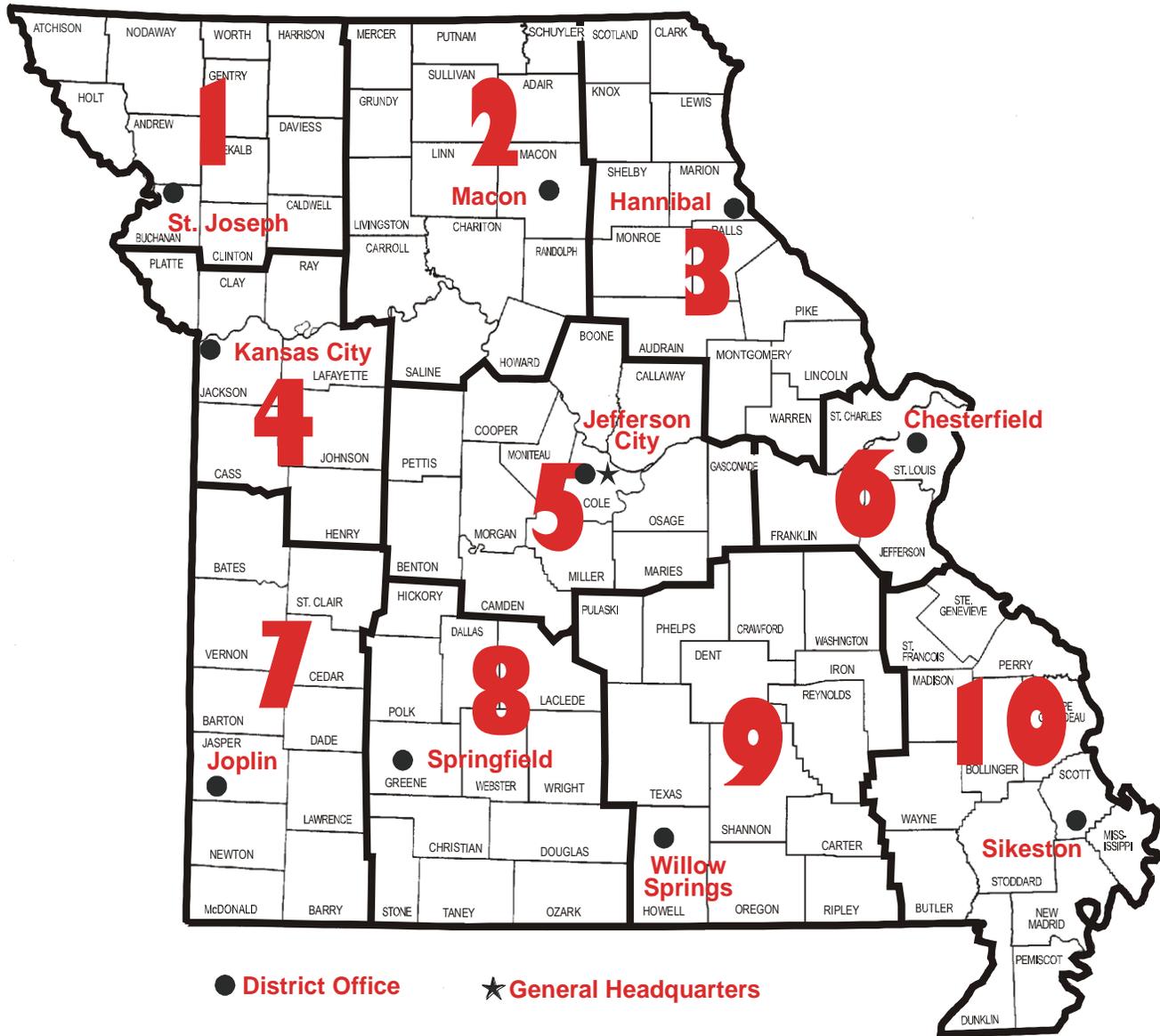
**RENEWAL PERIOD:** The bidder shall provide below the maximum percentage of increase or maximum percentage of decrease for the renewal period. The percentage shall be computed against the **original contract price** during the renewal period. **If a renewal percentage is not provided,** the prices during the renewal period shall be the same as during the current contract period.

**1<sup>st</sup> Renewal Period** \_\_\_\_\_ % of maximum increase and/or \_\_\_\_\_ % of maximum decrease.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

# Missouri Department of Transportation District Outline Map



● District Office      ★ General Headquarters

COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.
Adair.....	2	Cedar.....	7	Greene.....	8	Linn.....	2	Ozark.....	8	St. Louis.....	6
Andrew.....	1	Chariton.....	2	Grundy.....	2	Livingston.....	2	Pemiscot.....	10	Saline.....	2
Atchison.....	1	Christian.....	8	Harrison.....	1	McDonald.....	7	Perry.....	10	Schuyler.....	2
Audrain.....	3	Clark.....	3	Henry.....	4	Macon.....	2	Pettis.....	5	Scotland.....	3
Barry.....	7	Clay.....	4	Hickory.....	8	Madison.....	10	Phelps.....	9	Scott.....	10
Barton.....	7	Clinton.....	1	Holt.....	1	Maries.....	5	Pike.....	3	Shannon.....	9
Bates.....	7	Cole.....	5	Howard.....	2	Marion.....	3	Platte.....	4	Shelby.....	3
Benton.....	5	Cooper.....	5	Howell.....	9	Mercer.....	2	Polk.....	8	Stoddard.....	10
Bollinger.....	10	Crawford.....	9	Iron.....	9	Miller.....	5	Pulaski.....	9	Stone.....	8
Boone.....	5	Dade.....	7	Jackson.....	4	Mississippi.....	10	Putnam.....	2	Sullivan.....	2
Buchanan.....	1	Dallas.....	8	Jasper.....	7	Moniteau.....	5	Ralls.....	3	Taney.....	8
Butler.....	10	Daviess.....	1	Jefferson.....	6	Monroe.....	3	Randolph.....	2	Texas.....	9
Caldwell.....	1	Dekalb.....	1	Johnson.....	4	Montgomery.....	3	Ray.....	4	Vernon.....	7
Callaway.....	5	Dent.....	9	Knox.....	3	Morgan.....	5	Reynolds.....	9	Warren.....	3
Cape Girardeau.....	10	Douglas.....	8	Laclede.....	8	New Madrid.....	10	Ripley.....	9	Washington.....	9
Carroll.....	2	Dunklin.....	10	Lafayette.....	4	Newton.....	7	St. Charles.....	6	Wayne.....	10
Carter.....	9	Franklin.....	6	Lawrence.....	7	Nodaway.....	1	St. Clair.....	7	Webster.....	8
Cass.....	4	Gasconade.....	5	Lewis.....	3	Oregon.....	9	St. Francois.....	10	Worth.....	1
		Gentry.....	1	Lincoln.....	3	Osage.....	5	Ste. Genevieve.....	10	Wright.....	8

# VENDOR INFORMATION & PREFERENCE CERTIFICATION FORM

## Vendor Information

**All bidders must furnish ALL applicable information requested below**

<b>Vendor Name/Mailing Address:</b>  Email Address:	<b>Vendor Contact Information (including area codes):</b> Phone #: Cellular #: Fax #:
<b>Printed Name of Responsible Officer or Employee:</b>	<b>Signature:</b>
<b>For Corporations - State in which incorporated:</b>	<b>For Others - State of domicile:</b>

If the address listed in the Vendor Name/Mailing Address block above is not located in the State of Missouri, list the address of Missouri offices or places of business:

*If additional space is required, please attach an additional sheet and identify it as **Addresses of Missouri Offices or Places of Business.***

**M/WBE INFORMATION:** List all certified Minority or Women Business Enterprises (**M/WBE**) utilized in the fulfillment of this bid. Include percentages for subcontractors and identify the M/WBE certifying agency:

<u>M/WBE Name</u>	<u>Percentage of Contract</u>	<u>M/WBE Certifying Agency</u>

*If additional space is required, please attach an additional sheet and identify it as **M/WBE Information***

## Preference Certification

**All bidders must furnish ALL applicable information requested below**

**GOODS/PRODUCTS MANUFACTURED OR PRODUCED IN USA:** If any or all of the goods or products offered in the attached bid which the bidder proposes to supply to the MHTC are **not** manufactured or produced in the "United States", or imported in accordance with a qualifying treaty, law, agreement, or regulation, list below, by item or item number, the country other than the United States where each good or product is manufactured or produced.

Item (or item number)	Location Where Item is Manufactured or Produced

*If additional space is required, please attach an additional sheet and identify it as **Location Products are Manufactured or Produced.***

**MISSOURI SERVICE-DISABLED VETERAN BUSINESS:** Please complete the following if applicable. Additional information may be requested if preference is applicable. See below definitions for qualification criteria:

**Service-Disabled Veteran** is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

**Service-Disabled Veteran Business** is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

<u>Veteran Information</u>	<u>Business Information</u>
Service-Disabled Veteran's Name (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service Disabled Veteran Business

**MISSOURI DEPARTMENT OF TRANSPORTATION  
JEFFERSON CITY, MISSOURI  
Mineral Spirits and Double Boiled Linseed Oil**

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**COOPERATIVE AGREEMENT NOTICE**

The Department is interested in assisting Missouri governmental entities, etc. in purchasing equipment, various materials and supplies that meet the Highway and Transportation Department specifications.

Each bidder is asked to indicate below whether they would be willing to offer **Mineral Spirits and Double Linseed Oil** listed in the attached "Request for Bid" for sale to these local political entities at the same bid price offered to this Department.

It is understood the Department will not issue purchase orders, accept delivery nor make payment for these items ordered by any of these agencies. It is further understood the price is based on the **Mineral Spirits and Double Linseed Oil** meeting the Department specifications. Any added options, deletions, or extra freight costs would be negotiated between the local agency and the successful vendor.

Indicate below whether your company is willing to offer such cooperative purchasing for Missouri counties, cities or other political entities.

YES \_\_\_\_\_

NO \_\_\_\_\_

If the price varies throughout the state on Department bids because of different delivery destinations, please indicate the price f.o.b. your location that would be offered as described.

F.O.B. Location \_\_\_\_\_

Indicate the deadline date that orders will be accepted. \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

*(Each vendor should complete the appropriate sections of their form and submit with their bid.)*

Missouri Highways and Transportation Commission  
**Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions**

**STANDARD SOLICITATION PROVISIONS**

- a. The solicitation for the procurement of the supplies referenced therein, to which these "Standard Bid Provisions, General Terms and Conditions and Special Terms and Conditions" are attached, is being issued under, and governed by, the provisions of Title 7 – Missouri Department of Transportation, Division 10 – Missouri Highways and Transportation Commission, Chapter 11 – Procurement of Supplies, of the Code of State Regulations. The Missouri Highways and Transportation Commission (**MHTC**), acting by and through its operating arm, the Missouri Department of Transportation (**MoDOT**), draws the Bidder's attention to said 7 CSR 10-11 for all the provisions governing solicitation and receipt of bids/quotes and the award of the contract pursuant to this solicitation.
- b. All bids/quotes must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

**GENERAL TERMS AND CONDITIONS**

**Definitions**

Capitalized terms as well as other terms used but not defined herein shall have the meaning assigned to them in section 7 CSR 10-11.010 Definition of Terms.

**Nondiscrimination**

- a. The Contractor shall comply with all state and federal statutes applicable to the Contractor relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).
- b. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MHTC shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
  - ii. cancellation, termination or suspension of the contract, in whole or in part.

**Contract/Purchase Order**

- a. By submitting a bid/quote, the Bidder agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's bid response, and (3) the MHTC's acceptance of the bid by post-award contract or purchase order.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized notice to proceed and/or purchase order.

**Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri, Missouri Department of Revenue, and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MHTC a copy of their current Authority Certificate from the Secretary of State of the State of Missouri and/or a copy of their Certificate of No Tax Due from the Missouri Department of Revenue.
- c. Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MHTC a copy of their current Transient Employer Certificate from the Missouri Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

**Executive Order:**

The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6<sup>th</sup>) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

- 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
- 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
- 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Missouri Highways and Transportation Commission  
**Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions**

**Preferences**

- a. In the evaluation of bids/quotes, preferences shall be applied in accordance with 7 CSR 10-11.020(7). Contractors should apply the same preferences in selecting subcontractors. The attached document entitled "**VENDOR INFORMATION AND PREFERENCE CERTIFICATION FORM**" must be completed and returned with the solicitation documents.
- b. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

**Cancellation of Contract**

The MHTC may cancel the Contract at any time for a material breach of contractual obligations or for convenience by providing Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

**Bankruptcy or Insolvency**

Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntarily, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Contractor responsible for damages.

**Warranty**

The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the MHTC, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

**Status of Independent Contractor**

The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

**Non-Waiver**

If one of the parties agrees to waive its right to enforce any term of this Contract, that party does not waive its right to enforce such term at any other time or to enforce any or all other terms of this Contract.

**Indemnification**

The Contractor shall defend, indemnify and hold harmless MHTC, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Contractor's performance of its obligations under the contract awarded pursuant to this solicitation.